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REMARKS

Claims 4-10, and 14-29 were pending in the application. All claims stand rejected.

By way of this amendment, the Applicant amends claims 4, 13, and 18.

Claim Rejections Under 35 U.S.C. § 112, second paragraph

The Examiner rejected claims 13 and 20 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

By way of this amendment, the Applicant has amended the claim 13 to depend from claim 4 and has amended claim 18 to correct the contradiction contained in claim 20.

Therefore, the Applicant respectfully solicits reconsideration of the pending claims.

Claim Rejections Under 35 U.S.C. § 103

The Examiner rejected claims 4, 11, 12, and 15-17 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 4,749,093 issued to Trick in view of U.S. Patent No. 4,756,423 issued to Holtsch. The Examiner also rejected claim 13 as being obvious over Trick in view of Holtsch and in further view of U.S. Patent No. 4,014,628 issued to Sasson. The Examiner also rejected claims 18-26, 28 and 29 as being obvious over Trick in view of Holtsch and U.S. Patent No. 4,011,829 issued to Wachsmann and claim 27 as obvious over Trick, Holtsch, Sasson and Wachsmann.

By way of this amendment, the Applicant has amended claims 4 and 18 to claim that the indicator dial is detachable from the closure body. The indicator dials of Trick, Holtsch, Sasson and Wachsmann are all permanently secured to its respective closure body. The ability of the indicator dial to be detachable from the closure body has a significant advantage that is lacking in the prior art. Specifically, this allows the pharmacist to stock a number of closure bodies with a variety of inexpensive and interchangeable indicator dials. When filling a prescription, a pharmacist can attach the appropriate indicator dial to the closure body depending on the doses of medication prescribed. Because the indicator dials require less material to manufacture, significant manufacturing costs are saved.

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Additionally, claim 18 has been further amended to clarify that the central cavity has a continuous surface. This structure is more commonly referred to as a "blind-hole," meaning the hole only has one way in and out. A blind-hole differs from a "through-hole" in which an object can pass through one side of the hole and out the other side. The dispensing closures disclosed in Trick and Wachsmann are secured together by a peg with a flared end that is inserted into a through-hole on the closure body. A through-hole has the disadvantage of providing moisture access to the contents of the pill vial, thus risking contamination or spoilage of the prescription medicine contained therein.

Because the closure body does not have a through-hole thereon, an additional advantage of the present invention is the fact that the closure body can be used a cap in itself without attaching the indicator dial. Thus, the pharmacist can maintain one set of dispensing closures to use for all prescriptions, and take the additional step of attaching indicator dials to the closure bodies of the dispensing closures for those prescriptions the he or she deems in his or her best judgment as being beneficial to the patient.

Although not cited by the Examiner for any substantive rejection, the Applicant wishes to point out some distinct differences between the present invention and another patent uncovered in the Examiner's search, U.S. Patent No 6,059,133 issued to Lai. The Lai patent suffers from several distinct disadvantages that the invention of the present application surmounts. In particular, the rotary disk is not designed to be removable from the main body. As best seen in Figs. 1 and 2 of the Lai patent, the cap (1) has a main body (2) and rotary disk (3). The rotary disk (3) is fitted over a protrusion (23) on the main body (2) and has an annular rim that forms a retaining portion (24). The retaining portion (24) becomes trapped in a retaining slot (33) on the rotary disk (3) keeping the cap (1) in an assembled relation. The design of the annular band interfitting with the slot prevents the rotary disk from being dislodged from the cap without great effort. The dispensing closure of the present invention, however, is designed to be separable from the closure body so that a pharmacist may interchange the indicator dials as desired.

Additionally, if the pharmacist were to use the Lai cap without attaching the rotary disk, he or she would find that because the protrusion (23) in the Lai cap (1) is on the main body (2), the container cannot be stacked once a cap is assembled on its respective container.

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As can be seen, the protrusion would make stacked vials unstable. However, the dispensing closure of the present invention uses a central cavity to allowing the top surface of the vials to remain relatively flat and, therefore, stackable. Moreover, the pharmacist would find the Lai cap, without its rotary disk, presents an undesirable appearance because of the exposed protrusion.

The dispensing closures of the present invention is a significant improvement over the prior art that has the potential to be commercially successful where others have failed. The two-piece construction allows manufacturing to be born at minimal cost. Moreover, this invention allows the pharmacist to maintain one stock of caps to use with or without dials as desired, thus making this closure more desirable over prior art vial closures. In addition, because the dials are interchangeable, the pharmacist need only maintain a stock of the various inexpensive indicator dials in order to be able to provide an indicator suitable to use with the most common of number of doses prescribed.

To date, not one prior art cap with an indicator has been commercially successful. All have been too expensive to manufacture and for a pharmacist to keep in stock. The dispensing closure of the present invention solves these two hurdles that have been keeping closures with indicators off of the market.

Therefore, the Applicant respectfully requests reconsideration of the pending claims.

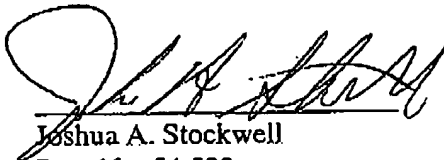
Conclusion

In view of the foregoing arguments and amendments to the claims, the Applicant respectfully solicits favorable action on the merits. The Examiner is invited to call the undersigned at the number listed below regarding this amendment and the arguments made herein, however please continue to send all official correspondence to the correspondence address currently on file.

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The USPTO is authorized to charge any additional fees incurred as a result of the filing hereof or credit any overpayment to our account #02-0900.

Respectfully submitted,



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